

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Criminal Action No. 20-21-MN
v.)	
)	
PENGCHENG LV,)	
)	
Defendant.)	

**JOINT MOTION TO CONTINUE CHANGE OF PLEA HEARING
AND EXCLUDE TIME**

NOW COMES the United States of America, by and through its attorneys, David C. Weiss, United States Attorney for the District of Delaware, and Laura D. Hatcher, Assistant United States Attorney, and the Defendant, Pengcheng Lv, by and through his attorney, Peter Zeidenberg, and submits this joint motion to continue the change of plea hearing. In support of this motion, the parties submit the following:

1. On March 18, 2020, the United States District Court for the District of Delaware entered a Standing Order providing that, as a result of the emergency presented by COVID-19, all civil and criminal jury trials scheduled to begin between March 18, 2020, and April 30, 2020, before any district or magistrate judge in this district are continued pending further Order of the Court. The Standing Order likewise continued all change of plea hearings, sentencings, and violation of supervised release hearings until a date on or after April 30, 2020, unless otherwise ordered by the assigned judicial officer. The Order further provides that each assigned judicial officer may extend this period of exclusion as circumstances may warrant as to any specific proceeding.

2. On April 17, 2020, the United States District Court for the District of Delaware issued a revised Standing Order providing that, as a result of the emergency presented by COVID-19, all civil and criminal jury trials scheduled to occur before May 31, 2020, are continued pending further Order of the Court. The revised Standing Order recognized that individual judicial officers may continue to schedule and hold hearings, including change of plea hearings, consistent with the principles set forth in the revised Standing Order and the sound administration of justice.

3. In light of the concerns brought on by the COVID-19 pandemic, and with the defendant's consent, on May 1, 2020, the Court scheduled a virtual change of plea hearing to occur on May 20, 2020.

4. Due to technical difficulties, the change of plea hearing did not occur as scheduled.

5. The parties respectfully request that the change of plea hearing be continued and rescheduled at the Court's earliest convenience for an in-person hearing, if possible. Should an in-person hearing not be possible for reasons related to the ongoing COVID-19 pandemic, the parties respectfully request that the change of plea hearing be continued and rescheduled at the Court's earliest convenience for a virtual hearing.

6. The government respectfully requests that this Court enter a specific order in this case excluding from the speedy trial calculation all delay caused by the suspension of criminal proceedings in the district as a result of COVID-19.

7. Accordingly, the government respectfully requests that this Court enter a case-specific order finding excludable delay appropriate in this particular case under

the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A), based on the sound reasons set forth in the Standing Order and revised Standing Order. Moreover, the government respectfully requests that the time be excluded under the Speedy Trial Act because the ends of justice served by the delay outweigh the best interest of the public and the defendant in a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A).

8. Counsel for the defendant, Peter Zeidenberg, joins this motion.

WHEREFORE, for all these reasons, and any other reasons the Court deems necessary, the parties respectfully request a continuance of the change of plea hearing, and that it be rescheduled at the Court's earliest convenience. The parties further request that the time be excluded under the Speedy Trial Act. A proposed Order is attached.

Respectfully submitted,

DAVID C. WEISS
United States Attorney

By: /s/ Laura D. Hatcher
Laura D. Hatcher
Assistant United States Attorney

Dated: May 20, 2020

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Plaintiff,)	
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)	
PENGCHENG LV,)	
)	
Defendant.)	

PROPOSED ORDER

AND NOW, this _____ day of _____, 2020, having considered the Joint Motion to Continue the Plea Hearing and Exclude Time, the Court determines as follows.

On March 18, 2020, the United States District Court for the District of Delaware entered a Standing Order providing that, as a result of the emergency presented by COVID-19, all civil and criminal jury trials scheduled to begin between March 18, 2020, and April 30, 2020, before any district or magistrate judge in this district are continued pending further Order of the Court. The Standing Order likewise continued all change of plea hearings, sentencings, and violation of supervised release hearings until a date on or after April 30, 2020, unless otherwise ordered by the assigned judicial officer. The Order further provides that each assigned judicial officer may extend this period of exclusion as circumstances may warrant as to any specific proceeding.

In support of these measures, the Court described actions of the federal and state governments, as well as public health authorities, to limit the spread of COVID-19, and explained that the suspension of trials and other proceedings is required to further

public health and safety, reduce the size of public gatherings, and reduce unnecessary travel within the district.

Pursuant to the findings in the Standing Order, which the undersigned judicial officer fully agrees with and adopts, this Court ORDERS that pursuant to 18 U.S.C. § 3161(h)(7)(A), that the period of delay between May 20, 2020, and _____, shall be excluded under the Speedy Trial Act as the ends of justice served by the delay outweigh the best interest of the public and the defendant in a speedy trial.

It is further ordered that the change of plea hearing shall commence on _____ day of _____, 2020, at _____ in Courtroom _____.

IT IS SO ORDERED.

BY THE COURT:

THE HONORABLE MARYELLEN NOREIKA
UNITED STATES DISTRICT JUDGE